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SUBJECT: Austrian Parliament to Lift Bank Secrecy for Foreigners,
Expand Tax Cooperation

REF: A) Vienna 1076; B) Vienna 847; C) Vienna 323 and previous

[11](#). (SBU) SUMMARY: On August 26, Austria's governing parties reached agreement with the opposition Greens and BZO on a bill which partially lifts bank secrecy for foreigners (in exchange for stronger opposition rights to invoke investigative committees and special state audits). Parliament is expected to enact the bill in a special plenary session on September 1. The new law is a key step to getting Austria off the OECD's "Grey List" of jurisdictions that withhold information from foreign tax authorities. Austria's Finance Ministry (MoF) is currently renegotiating a number of bilateral double taxation treaties (it has concluded several already), which can enter into force as soon as the new bill is in place. The move is a turnaround for Austrian authorities and a significant step towards greater financial transparency. END SUMMARY.

GoA, Opposition Make a Deal

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[12](#). (U) After a long standoff, the GoA and two opposition parties (Greens and BZO) reached agreement on August 26 to lift bank secrecy for non-citizens in cases of suspected tax evasion or other criminal conduct. Under the new law, foreign tax authorities no longer need an indictment to seek account information; substantiated evidence of wrong-doing will suffice.

[13](#). (U) In exchange, the GoA agreed to opposition demands to lower the bar to establish parliamentary investigative committees and, expand state audit responsibilities (the audit court is now authorized to investigate Austria's bank rescue package -- including the terms of GoA equity participation in banks -- and to audit companies with less than 50% public ownership, but where the state still has a controlling influence. Austria's largest, far-right opposition party (the FPÖ) voiced strong critique of the new law, arguing that Austrians should not yield to "blackmailing" by international organizations.

[14](#). (SBU) Parliament's Finance Committee approved the bill on August 27 with the votes of the SPÖ, ÖVP, Greens and BZO; a special plenary session on September 1 will pass the bill just in time for the September 1-3 OECD Global Forum on tax policy (where Austrians expected another dollop of criticism as an uncooperative jurisdiction).

Austria Desperate to Graduate from OECD Grey List

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[15](#). (SBU) Passing the bill (a virtual certainty now) is an important milestone to getting Austria off the OECD's Grey List. Austria is the last EU member country on the list, in company with San Marino, Monaco, Andorra, Liechtenstein, and (for now) Switzerland. To get

off the list, Austria must sign OECD-conforming tax information agreements with at least 12 partners. The MoF is in the process of renegotiating bilateral double taxation treaties (negotiations are reportedly finished with five countries and are close to conclusion with seven others). The new agreements will enter into force as soon as the legal basis is in place (i.e., shortly after September 1). COMMENT: As noted in reftels, the GoA intends to reopen the bilateral U.S.-Austria taxation treaty, but not as part of the first tranche of revised bilaterals (i.e. more likely in 2010). END COMMENT.

Why & How the GoA Moved to Lift Bank Secrecy

16. (SBU) Mounting pressure from the EU, OECD, G-20 and lately the European Investment Bank (EIB -- the EU's financing arm) forced the GoA to move on bank secrecy, until now a "third rail" domestically. The GoA signaled its new approach at the time of the G-20 London summit in early April, but the issue quickly ran into a parliamentary roadblock. The EIB's threat in mid-August to stop doing business with Austrian banks after March 2010 (unless the GoA "graduated" from the OECD Grey List) sent shockwaves through the financial community here. EIB blacklisting would have hit Austrian banks hard, since they work closely with the EIB on projects in Central, Eastern and Southeastern Europe (the EIB also finances about EUR 1.2 billion annually in Austria itself).

17. (U) To maintain secrecy for Austrian citizens and avoid amending the Banking Act directly (a highly charged political topic) the GoA came upon the idea of amending separate legislation (Law on Procedures for Administrative Aid) to expand the cases in which the GoA can authorize banks to provide account information to foreign

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tax authorities. Even with the revised law, cooperation will be only on request -- automatic data exchange is not/not foreseen. Further procedural detail is regulated by bilateral tax treaties. (NOTE: Even this small change still requires a 2/3 majority approval in Parliament, since it indirectly affects bank secrecy). Speaking for the two coalition parties, FinMin / Vice Chancellor Josef Proell and State Secretary Andreas Schieder defended the new law as necessary to avoid serious economic damage to Austrian interests.

COMMENT

18. (SBU) Faced with growing outside pressure -- most recently, the EIB's threat to shut out Austrian banks in Eastern Europe -- the GoA completely acquiesced to opposition demands to get the necessary super-majority. Within Austria, the new audits will mean an embarrassing look into cost explosions at Vienna Airport (NOTE: the airport is 40% publicly owned by representatives of both big parties) and may lead to airing of other "dirty laundry" given the tradition of dividing spoils among Austria's two large parties.

19. (SBU) Since March, Austria's body politic (with the exception of the far right) has changed its tune significantly on bank secrecy and tax information exchange. Pressure from the G-20 summit in London, OECD partners, the FATF (indirectly), and powerful EU member states like Germany convinced the GoA and key industry leaders that Austria cannot afford to uphold bank secrecy as a "holy cow" (it also helped that the GoA can basically exempt Austrian citizens from information exchange). In sum, the latest move is a significant step towards greater transparency in financial dealings involving Austrian counterparts.

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